

1 LAURI S. THOMPSON, ESQ.  
Nevada Bar No. 6846  
2 thompsonl@gtlaw.com  
LARAINE BURRELL, ESQ.  
3 Nevada Bar No. 8771  
burrelll@gtlaw.com  
4 BETHANY RABE, Esq.  
Nevada Bar No. 11691  
5 rabe@gtlaw.com  
GREENBERG TRAURIG, LLP  
6 3773 Howard Hughes Parkway  
Suite 400 North  
7 Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
8 Facsimile: (702) 792-9002  
9 *Counsel for Plaintiff, GNLV, Corp.*

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 GNLV, Corp., a Nevada corporation,  
13 Plaintiff,

14 v.

15 P5s Holdings, LLC, a Delaware limited  
liability company, Adam Small, an  
16 individual, Calvin Spears, and  
individual,

17 Defendants.  
18

Case No.: 2:13-cv-00865-APG-NJK

***EX PARTE* TEMPORARY  
RESTRAINING ORDER**

19  
20 This matter came before the Court on Plaintiff GNLV, Corp.'s ("GNLV" or "Plaintiff"), Ex  
21 Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction (Doc.  
22 #3), requiring Defendants P5s Holding, LLC, Adam Small and Calvin Spears, (collectively  
23 "Defendants") to (a) immediately cease and desist all use of the domain name  
24 <goldennuggetpokerreview.com> ("the infringing Domain Name"), (b) immediately cease and desist  
25 use of any of Plaintiff's trademarks, and (c) requiring the domain name registrar to lock the domain  
26 names at issue and transfer them to GNLV. Having considered the supporting Memorandum of  
27 Points and Authorities, Declarations and exhibits and the record in this case, and for good cause  
28 shown, the Court rules as follows.

GREENBERG TRAURIG, LLP  
3773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

1 THE COURT HEREBY FINDS THAT:

2 1. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C.  
3 §§ 1331 and 1338.

4 2. The Court has personal jurisdiction over the Defendants in that: (a) Defendants have  
5 registered a domain name linked to a web site on the Internet accessible to residents of the State of  
6 Nevada; (b) Defendants have threatened to place negative content on the website concerning  
7 Plaintiff including "Golden Nugget Sucks"; and (c) Defendants committed tortious acts that they  
8 knew or should have known would cause injury to Plaintiff in the State of Nevada.

9 3. GNLV has made extensive use of the GOLDEN NUGGET Marks on, among other  
10 things, signage, wearing apparel, and sales and promotional materials, and has obtained federal  
11 registration for the GOLDEN NUGGET Marks for various goods and services, including but not  
12 limited to:

13 (a) GOLDEN NUGGET for casino and bar services (U.S. Reg. No. 1,554,155);

14 (b) GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S. Reg. No.  
15 1,082,044);

16 (c) GOLDEN NUGGET for casino services (U.S. Reg. No. 1,203,988); and

17 (d) GOLDEN NUGGET for hotel and resort hotel services (U.S. Reg. No. 2,240,084).

18 4. GNLV has made extensive use of the GOLDEN NUGGET Marks on, among other  
19 things, signage, wearing apparel, and sales and promotional materials, and is a licensee of several  
20 federal registrations for the GOLDEN NUGGET Marks for various goods and services, including  
21 but not limited to:

22 (a) GOLDEN NUGGET for casino and bar services (U.S. Reg. No. 1,554,155);

23 (b) GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S. Reg. No.  
24 1,082,044);

25 (c) GOLDEN NUGGET for casino services (U.S. Reg. No. 1,203,988); and

26 (d) GOLDEN NUGGET for hotel and resort hotel services (U.S. Reg. No. 2,240,084).

27 5. Based on its federal trademark registrations and extensive use, GNLV owns the  
28 exclusive right to use the GOLDEN NUGGET Marks in connection with resort hotel, casino and

1 related services. The extensive advertising and promotion of the “Golden Nugget” resort hotel  
 2 casinos have resulted in the GOLDEN NUGGET name and marks being distinctive for resort hotel  
 3 casino services.

4 6. Defendants have used GNLV’s marks as part of their domain name  
 5 <goldennuggetpokerreview.com>. without GNLV’s authority or permission.

6 7. GNLV will suffer irreparable injury if the Court does not require the domain name  
 7 registrar GoDaddy.com (“Registrar”) to lock the infringing domain name listed above and transfer it  
 8 to GNLV pending litigation of this matter.

9 8. GNLV has demonstrated that it will suffer irreparable harm if a Temporary  
 10 Restraining Order is not entered *ex parte* because, immediately upon notice of suit and prior to  
 11 hearing, Defendants could transfer the Infringing Domain Name to another registrant or registrar  
 12 which would deprive the Court of jurisdiction and require GNLV to file additional suits to chase the  
 13 Infringing Domain Name to recover its intellectual property. Transfer of the Infringing Domain  
 14 Name to another registrar would require GNLV to expend significant effort and financial resources  
 15 to track the registration.

16 9. GNLV has demonstrated likelihood of success on the merits of its cybersquatting  
 17 claims against Defendant under the Lanham Act, 15 U.S.C. § 1125(d).

18 10. GNLV has demonstrated likelihood of success on the merits of its mark infringement  
 19 claims against Defendant under the Lanham Act, 15 U.S.C. § 1114, and Nevada law.

20 11. GNLV has demonstrated likelihood of success on the merits of its unfair competition  
 21 claims against Defendant under the Lanham act, 15 U.S.C. § 1125(a).

22 12. The balance of hardships tips in favor of GNLV because issuance of the temporary  
 23 restraining order would merely lock and transfer the domain name to GNLV pending trial, and  
 24 failure to issue the restraining order would cause GNLV to suffer irreparable injury to its name and  
 25 marks and the associated goodwill if Defendants are not enjoined from registering, maintaining the  
 26 registration on or using domain names containing GNLV’s marks or marks confusingly similar to  
 27 GNLV’s name and marks.  
 28

GREENBERG TRAUBIG, LLP  
 3773 Howard Hughes Parkway, Suite 400 North  
 Las Vegas, Nevada 89169  
 Telephone: (702) 792-3773  
 Facsimile: (702) 792-9002

13. There is no likelihood of harm to the public from the Temporary Restraining Order now being granted.

**IT IS THEREFORE ORDERED** that GNLV's *ex parte* Application for Temporary Restraining Order is hereby **GRANTED**;

**IT IS FURTHER ORDERED** that, pursuant to 15 U.S.C. § 1125(d)(1)(C), the domain name <goldennuggetpokerreview.com> shall be immediately locked by the Registrar and/or its successor registrars and transferred to GNLV.

**IT IS FURTHER ORDERED** that Defendants will immediately cease and desist from all use of GNLV's name and trademarks and any and all variants thereof, including use of the Infringing Domain Names, and take all necessary actions to transfer the Infringing Domain Name to GNLV.

**IT IS FURTHER ORDERED** that the Registrar and/or its successor registrars remove all existing Domain Name Server (DNS) entries and corresponding addresses, and enter the Registrar's default Domain Name Server and address entries, to prevent further potential damage caused by the infringing use of the Infringing Domain Name.

**IT IS FURTHER ORDERED** that, pursuant to 15 U.S.C. § 1116(a), Defendants shall file with this Court and serve upon GNLV within thirty (30) days after entry of this Order, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with this Court's Order.

**IT IS FURTHER ORDERED** that GNLV shall post a nominal bond of \$100.00 for each domain name at issue because the evidence indicates that Defendants will suffer only minimal, if any, damage by the issuance of this Temporary Restraining Order.

#### **ORDER SETTING HEARING FOR PRELIMINARY INJUNCTION**

UPON CONSIDERATION of GNLV's above-referenced Motion for Preliminary Injunction, the Memorandum of Points and Authorities, the supporting declarations and exhibits, and the papers and pleadings on file in this matter, and for good cause shown;

1. The Court hereby sets the hearing for Plaintiff's Motion for Preliminary Injunction on **Wednesday, May 29, 2013, at 2:00 p.m.** in Courtroom 6C at the Lloyd D. George United States

1 Federal Courthouse, 333 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

2 2. Further, the Court hereby sets the following briefing schedule relating to Plaintiff's  
3 Motion:

4 (e) Defendants shall file and serve opposition papers, if any, no later than **3:00 p.m.**  
5 **PDT on Friday, May 23, 2013;** and

6 (f) Plaintiff shall file and serve its reply brief, if any, no later than **4:00 p.m. PDT on**  
7 **Tuesday, May 28, 2013.**

8 3. In order to ensure Defendants receive timely notice of the hearing and briefing  
9 schedule, given that Defendants must maintain accurate contact information with the domain name  
10 registrar, GNLV is required to -- in addition to the requirements set forth in Rules 4 and 5 of the  
11 Federal Rules of Civil Procedure -- serve the Motion and all supporting papers, this Order and all  
12 other pleadings filed to date on Defendant by electronic mail transmission.

13 Dated this 17<sup>th</sup> date of May at 1:35 p.m.

14   
15 \_\_\_\_\_  
16 UNITED STATES DISTRICT JUDGE

17  
18 Respectfully submitted by:

19  
20 DATED: this 16<sup>th</sup> day of May, 2013

21  
22 GREENBERG TRAURIG, LLP

23 /s/ Laraine M. I. Burrell

24 \_\_\_\_\_  
25 Lauri S. Thompson (Bar No. 6846)  
26 Laraine M.I. Burrell (Bar No. 8771)  
27 Bethany Rabe (Bar No. 11691)  
28 3773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Counsel for Plaintiff

GREENBERG TRAURIG, LLP  
3773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002